

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

BENJAMIN FAWLEY,

Petitioner,

v.

No. CV 18-943 MV/CG

DAVID JABLONSKI,  
et al.,

Respondents.

**ORDER GRANTING LEAVE TO AMEND  
AND DENYING PENDING MOTIONS**

**THIS MATTER** is before the Court on Petitioner Benjamin Fawley's *Motion to Amend Pleading*, (Doc. 51). Also before the Court are Mr. Fawley's *Motion for Replevin*; *Motion to Demand the Nature and Cause(s) of the Accusation(s)*; *Motion for Facts, Findings and Conclusions*; and *Motion to Show Cause*. (Docs. 41, 43, 55, 70). The Court will **GRANT** Mr. Fawley's *Motion to Amend Pleading*, (Doc. 51), and will **DENY** all other pending motions.

Mr. Fawley has filed a handwritten *Petition for Writ of Habeas Corpus* that is 37 pages long, including exhibits. (Doc. 1). Since filing of his original petition, Mr. Fawley has submitted an additional 68 filings, many of them handwritten, difficult to decipher, and multiple pages long. The nature, length, and volume of Mr. Fawley's filings make it difficult and unduly burdensome for the Court to review and determine his claims.

In his *Motion to Amend Pleading*, (Doc. 51), Mr. Fawley seeks to amend his Petition to "ensure that all of the civil rights violations by Respondent(s) are Recognized by this Court; and brought to the attention of this Court." (Doc. 51 at 1). Rule 15

requires courts to “freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2). The Court will therefore grant the *Motion to Amend Pleading* and allow Mr. Fawley to file an amended petition within thirty (30) days of entry of this Order. Mr. Fawley must use the official habeas corpus form and include all relevant allegations in a single, legible document. The Petition must contain a short, plain statement of his claims. Fed. R. Civ. P. 8. The Court will not sort through a lengthy Petition and voluminous exhibits to construct Mr. Fawley’s causes of action. *McNamara v. Brauchler*, 570 Fed. App’x 741, 743 (10th Cir. 2014).

Also before the Court are Mr. Fawley’s *Motion for Replevin*; *Motion to Demand the Nature and Cause(s) of the Accusation(s)*; *Motion for Facts, Findings and Conclusions*; and *Motion to Show Cause*. (Docs. 41, 43, 55, 70) Those motions seek replevin of legal documents and papers, demand the nature and causes of Mr. Fawley’s criminal accusations and judgments, request findings of fact and conclusions of law, and ask the Court to show cause for alleged delay in the case. The motions for replevin, the nature and causes of criminal accusations, and findings and conclusions are premature until preliminary review is completed, and preliminary review in this case is delayed by the voluminous, burdensome, filings submitted by Mr. Fawley. The Court will therefore deny Docs. 41, 43, and 55 without prejudice and renew the motions after preliminary screening is completed. The Court will also deny the *Motion to Show Cause*. (Docs. 70).

**IT IS THEREFORE ORDERED:**

(1) the *Motion to Amend Pleading*, (Doc. 51), is **GRANTED**; and Mr. Fawley may file a single, legible amended Petition on the Court's official form within 30 days of entry of this Order;

(2) the Clerk's Office is **DIRECTED** to mail Mr. Fawley a copy of the form Petition for Writ of Habeas Corpus Under 28 U.S.C. 2254 by a Person in State Custody, with instructions, together with this Order; and

(3) the *Motion for Replevin*; *Motion to Demand the Nature and Cause(s) of the Accusation(s)*; *Motion for Facts, Findings and Conclusions*; and *Motion to Show Cause* (Docs. 41, 43, 55, 70) are **DENIED** without prejudice.

**IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal line extending to the right.

---

THE HONORABLE CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE